

**Certified Welding & Products, Inc. and International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), AFL-CIO. Case 7-CA-31411**

May 8, 1992

**DECISION AND ORDER**

BY CHAIRMAN STEPHENS AND MEMBERS  
DEVANEY AND OVIATT

On July 17, 1991, the National Labor Relations Board issued a Decision and Order,<sup>1</sup> inter alia, ordering Certified Welding & Products, Inc., to make whole certain of its unit employees for loss of earnings and other benefits resulting from their discharges in violation of the National Labor Relations Act. On February 25, 1992, the United States Court of Appeals for the Sixth Circuit entered a judgment enforcing the Board's Order.

A controversy having arisen over the amount of backpay due discriminatees, on February 6, 1992, the Regional Director for Region 7 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent has failed to file an answer.

By letter dated March 9, 1992, the Acting Regional attorney advised the Respondent, its trustee in bankruptcy and its attorney that no answer to the compliance specification had been received and that unless an appropriate answer was filed by March 23, 1992, a Motion for Default Judgment would be sought. The Respondent filed no answer.

On April 10, 1992, the General Counsel filed with the Board a Motion to Transfer Case to the Board and for Default Judgment, with exhibits attached. On April 15, 1992, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>1</sup> 303 NLRB No. 108.

**Ruling on the Motion for Summary Judgment**

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

The Respondent is in bankruptcy.

It is well established that Board proceedings fall within the exception to the automatic stay provision of the Federal Bankruptcy Code for proceedings by a governmental unit to enforce its police or regulatory powers. It is equally well established that the filing of a bankruptcy petition does not deprive the Board of its jurisdiction to resolve unfair labor practices. See, e.g., *Cardinal Services*, 295 NLRB 933 fn. 2 (1989), and cases cited therein.

According to the uncontroverted allegations of the Motion for Default Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order payment by the Respondent to the discriminatees.

**ORDER**

The National Labor Relations Board orders that the Respondent, Certified Welding & Products, Inc., Roseville, Michigan, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, with interest to be computed in the manner prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and state laws:

## DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

Ronald Bearss	\$1230.27	Freddie McGuire	3144.14
Tracey Edgemon	1015.11	Tom Ritchie	2647.40
Daniel Hahn	3738.75	John Rockett	3400.57
John Hahn	4479.60	Mark Schaffer	3346.90
Conny Hale	1989.66	William Sego	1840.91
Ira Hale	3067.02	Dan Smallwood	1542.19
Larry Hale	3436.75	Paul Van Gorder	2749.68
Henry Heffel	1423.56		